

File Date: 2-11-2008

Case No: 08cv 939

ATTACHMENT # 3

EXHIBIT _____

TAB (DESCRIPTION)

Proceedings from 1/6/2005

STATE OF ILLINOIS)
) SS.
COUNTY OF C O O K)

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT - CRIMINAL DIVISION
SECOND DISTRICT

THE PEOPLE OF THE)
STATE OF ILLINOIS)
)
 -VS-) No. 04 CR 5900
)
DWAYNE GRIFFIN.)

REPORT OF PROCEEDINGS

BE IT REMEMBERED that the above-entitled
cause came on for JURY TRIAL before the
Honorable SHARON M. SULLIVAN , Judge of said
Court, on the 6th day of January, A.D., 2005, in
Skokie, Illinois, Courtroom 209.

APPEARANCES:

HON. RICHARD DEVINE,
State's Attorney of Cook County, by:
MS. STEPHANIE CALLAS and LORI SCHULTZ,
Assistant State's Attorneys,
on behalf of the People;

MR. DWAYNE GRIFFIN,
appeared Pro Se.

MARIETTA DEL PRETO, CSR, 84-1328
Official Court Reporter
5600 Old Orchard Rd.- Rm. 204
Skokie, IL 60077

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1 THE CLERK: Dwayne Griffin.

2 THE COURT: I understand all jurors are
3 present. Before we begin, one question initially I
4 asked the Public Defender in the courtroom to stay
5 in the courtroom. They do have civilian clothes in
6 their office, and so, they are happy to make those
7 available to you for you to be dressed in civilian
8 clothes.

9 THE DEFENDANT: No. I'm okay, your Honor.

10 THE COURT: You're saying you do not want them
11 to give you civilian clothes?

12 THE DEFENDANT: No, ma'am.

13 THE COURT: You don't want them. Even if I
14 have them bring them down to the courtroom --

15 THE DEFENDANT: I don't want them.

16 THE COURT: -- you're not going to wear them?

17 THE DEFENDANT: No, but I would like to make
18 one statement or argument that everyone that didn't
19 appear -- anyone that didn't appear before Judge
20 Gerald T. Wienicki on February 27th, that they be
21 barred from giving statements today. That's a
22 violation of my Constitutional rights.

23 THE COURT: Based on what authority, sir?

24 THE DEFENDANT: Of my Constitutional right of

1 due process of the law of a fair trial. Anyone
2 that didn't appear at the preliminary hearing
3 shouldn't be allowed to be able to give statements
4 today in these proceedings, ma'am.

5 THE COURT: State, do you want to respond to
6 his motion in limine?

7 MS. CALLAS: Yes, Judge. In response to his
8 motion in limine, a preliminary hearing is more
9 probable than not that a crime has been committed.
10 Hearsay is accepted within preliminary hearing, and
11 a preliminary hearing is just that, preliminary.
12 That does not bar us, by any way -- there's
13 absolutely no case or no authority to bar any
14 witnesses from testifying in this case that have
15 been disclosed to the defendant.

16 The defendant has the police reports.
17 He's fully aware of the witnesses that we will be
18 calling. They are the officer on that report as
19 well as the lady from Blockbuster who testified at
20 the preliminary hearing, and we'd ask that that
21 motion be denied.

22 THE DEFENDANT: For the record, your Honor,
23 the defendant also still doesn't have the offense
24 arrest report that the police initially charged him

1 with. He doesn't have that arrest report, the
2 offense arrest report.

3 THE COURT: Your motion is denied. Any other
4 matters before we bring the jury in?

5 MS. CALLAS: Yes, Judge. I'd just like to
6 reiterate one more time that the report that the
7 defendant's talking about does not exist. Also, he
8 indicated by showing Xeroxed copies of photographs
9 that he believed there were two -- it showed two
10 windows broken or something to that effect.

11 We do have extra color copies for the
12 purpose of this trial. If the defendant wishes to
13 use these photographs which are actual photographs,
14 he may.

15 THE DEFENDANT: Okay. Thank you.

16 MS. CALLAS: You're welcome. And then, do you
17 want --

18 THE COURT: We're going to begin with opening
19 statements. They moved -- the podiums were in the
20 middle of the courtroom. They've been moved to the
21 side. Where are you going to address the jury
22 from?

23 MS. CALLAS: I was going to do my opening
24 here. I can do my exams there. It doesn't matter.

1 THE COURT: For purposes of opening statement,
2 they can be done in the center area here, if that's
3 all right with the defendant. For questioning the
4 witnesses, you can either question them from the
5 desk you're seated at or the podium that's there;
6 or if you need to use the center well of the
7 courtroom, you can, but do not approach any
8 witnesses without asking leave of Court. Even if
9 you want to present them with a document, first
10 please ask leave of Court before going up to any
11 witness. I will then have the deputies provide
12 those documents or photographs, whatever they may
13 be, to the witness.

14 MS. CALLAS: Judge, how do you want to address
15 sidebars and things of that nature?

16 THE COURT: It's going to be a little bit
17 difficult. Hopefully, we'll try to do them at the
18 side outside the ear shot of the jury, if we need
19 to.

20 MS. CALLAS: She's indicating --

21 THE DEFENDANT: Your Honor, also defense has
22 made copies of the photographs that was given to
23 him. I also made copies for the jury, to present
24 to the jury as evidence, also.

1 THE COURT: Let's wait until we're at the
2 defendant's case.

3 THE DEFENDANT: Okay.

4 THE COURT: At that point in time, we'll
5 determine what can be shown to the jury what's been
6 admitted into evidence.

7 Anything else that we need to address
8 before we bring the jury in?

9 We're ready for the jury then.

10 A DEPUTY: All rise for the jury. Jury is
11 present and accounted for.

12 THE COURT: Thank you. Please be seated, and
13 good morning, everyone. And I thank all of you,
14 and I'm very impressed by the fact that you were
15 all here. You were all here on time, and I know,
16 you know, how inclement it is out there. So, I
17 truly appreciate the consideration you've shown to
18 the Court and to each other.

19 At this time, I'm going to ask the clerk
20 to have you sworn in as jurors in this case. So,
21 if you would please stand, and raise your right
22 hands.

23 (Jury sworn.)

24 THE COURT: The deputies have provided you

1 with note pads and pencils. Let me just tell you.
2 It used to be that jurors weren't given note pads
3 and pencils. Some of you didn't, maybe. Now,
4 they've changed those rules, and you are provided
5 with them. That does not mean you have to take
6 notes. It's for your convenience.

7 If you'd like to take notes, if it helps
8 you, please feel free to do so. At the end of the
9 case when you go back to deliberate, I'll instruct
10 you again that you're not to tell your fellow
11 juror, hey, look it. I wrote it down like this.
12 So, this is what the evidence was. Each of you are
13 to discuss the case fully at the time of
14 deliberations and use your notes for your purposes
15 and to the extent they help you.

16 At this time, we're ready to begin the
17 case. We'll begin with opening statements. The
18 State will proceed first.

19 Does State wish to make an opening
20 statement?

21 MS. CALLAS: Yes.

22 THE COURT: Ms. Callas.

23 MS. CALLAS: Ladies and gentlemen, this is a
24 very simple case that you're going to hear today.

1 What this case is about is about Dwayne Griffin.
2 It's about how, on February 21, 2004, at about 4:30
3 in the morning, he decided that he wanted some
4 movies. And so, he went to the Blockbuster, busted
5 in the window, and started grabbing everything he
6 could.

7 But, of course, he couldn't carry all of
8 it. So, he grabbed everything he could, and he
9 took it to a nearby garbage can, and he put in the
10 garbage bag, and he went back, and he got more.
11 What he didn't count on was that the police were
12 going to pull up and see Dwayne Griffin standing
13 outside that window holding a bunch of videos on
14 one of his runs.

15 He sees the officer, drops them. After
16 he drops them, he proceeds to walks away. When the
17 officer approaches, he takes him into custody. At
18 that point, another officer is able to recover all
19 of those additional videos out of the garbage bag.

20 You're going to hear from the lady who's
21 the manager who worked at the Blockbuster at that
22 time who's going to tell you that all of those
23 videos that were recovered belonged to
24 Blockbuster. You're going to see that most of them

1 say Blockbuster on the side of them.

2 Nobody knew this defendant. Nobody gave
3 him permission to bust into that Blockbuster at
4 4:30 in the morning. And at the end of the case,
5 after you've heard all the evidence, we're going to
6 ask that you return a finding of guilty.

7 THE COURT: Thank you, Ms. Callas.

8 Mr. Griffin?

9 THE DEFENDANT: Yes. Ladies and gentlemen,
10 before I proceed today, I would like to send out my
11 sympathy for the lady here. I heard, you know,
12 when you was giving your statement yesterday to
13 what happened to you, my mother and my sister --

14 THE COURT: Mr. Griffin.

15 THE DEFENDANT: -- had that happen to them,
16 and I would just like to say my prayers and
17 sympathies out to you.

18 THE COURT: That's enough on that topic.

19 THE DEFENDANT: But any way, ladies and
20 gentlemens of the jury, when I say conspiracy, when
21 I say obstructing of justice, when I say due
22 process of the law, when I say wrongfully
23 incarcerated, when I say lying, it's perjury under
24 oath. They want you to believe that, but today,

1 today, they have the wrong man.

2 When you hear and see the evidence,
3 you're going to say impossible for him. He
4 couldn't do it. It was an inside job. February
5 the 20th, 2004, I was picked up by the Chicago
6 Police. I was locked in the 14th District Police
7 station. I was then taken to the Cook County
8 Jail. After that, I appeared before a Judge, Judge
9 Gerald T. Wienicki, for a preliminary hearing.

10 I have in my possession, I have 12 copies
11 for your viewing pleasure, and I'm now here today
12 on a crime. After you hear the statements and the
13 evidence, I'm going to tell you stop lying, stop
14 picking up innocent people and giving them cases.

15 What evidence? The evidence is going to
16 be against them, against them. They have no
17 evidence. You can go against some things and say
18 here he be, but it's evidence they want you to
19 believe. God is my witness is going to tear it
20 down and let the Cook County State's Attorney know
21 enough is enough, and he didn't do it. You're
22 lying. He didn't do it. You can't prove it.

23 Conspiracy, obstructing of justice,
24 planting evidence, concealing and destroying

1 evidence, falsifying statements, hiding and
2 stealing evidence. You're going to hear statements
3 from the police. Today, you're going to know it
4 ain't nothing but a conspiracy.

5 Nothing else, your Honor.

6 THE COURT: Thank you, Mr. Griffin.

7 At this time, the State will present
8 their evidence. They may call the first witness.

9 MS. CALLAS: At this time, the People call
10 Officer Matthew Blomstrand.

11 (Witness sworn.)
12

13 OFFICER MATTHEW BLOMSTRAND,
14 A witness called on behalf of the People of the
15 State of Illinois, having been first duly sworn,
16 was examined and testified as follows:

17 DIRECT EXAMINATION

18 BY MS. CALLAS:

19 Q Officer, could you please introduce
20 yourself to the ladies and gentlemen of the jury,
21 and spell your last name for the benefit of the
22 court reporter?

23 A Officer Blomstrand, B-l-o-m-s-t-r-a-n-d,
24 star No. 15875.

1 Q And are you a Chicago Police Officer?

2 A Yes.

3 Q Where are you currently assigned?

4 A The 25th District.

5 Q And where were you assigned on February
6 21st of the year 2004?

7 A At that time, I was assigned to the 14th
8 District.

9 Q How many districts are there in Chicago,
10 police districts?

11 A 25.

12 Q And do those police districts make up for
13 geographical areas?

14 A Yes.

15 Q Now, when you were assigned to the 14th
16 District, what are the boundaries of that district?

17 A It's Belmont on the north, Division on
18 the south, Central Park on the west, and the river
19 on the east.

20 Q Now, how long have you been a police
21 officer?

22 A Approximately two and a half years.

23 Q Directing your attention back to February
24 21st of 2004, do you recall what shift you were

1 working?

2 A I was working first watch.

3 Q And could you please tell the ladies and
4 gentlemen of the jury what the hours are for first
5 watch shift?

6 A My hours for that were 11:00 at night
7 until 7:00 in the morning.

8 Q Were you working alone that day or with a
9 partner?

10 A I had a partner.

11 Q What was your partner's name?

12 A Officer Prill.

13 Q Is that P-r-i-l-l?

14 A Correct.

15 Q And were you and your partner in full
16 uniform?

17 A Yes.

18 Q Like you are here today?

19 A Yes.

20 Q And what type of vehicle were you in, if
21 any?

22 A That night, we were in a squadrol, a
23 police squadrol which is basically the wagon that
24 we use to transport prisoners in. It's basically a

1 bigger police vehicle.

2 Q It's not an old police car?

3 A No.

4 Q It's large?

5 A Yes.

6 Q Does it say Chicago Police Department on
7 it?

8 A Yes.

9 Q Does it have any police lights?

10 A Yes, ma'am, it does.

11 Q And sirens?

12 A Correct.

13 Q Okay. Do you recall at approximately
14 4:28 in the morning responding to the location of
15 1303 North Milwaukee Avenue in Chicago, Cook
16 County, Illinois?

17 A Yes, I do.

18 Q Why did you respond to that location?

19 A While on patrol, we were monitoring the
20 radio, and we heard come over the air that there
21 was a burglary in progress at the Blockbuster at
22 that location.

23 Q Did you go there?

24 A Yes, we did.

1 Q When you first pulled in -- Please
2 describe what's at 1303. Is it just a Blockbuster
3 there on Milwaukee, or what is it?

4 A It's a strip mall with various other
5 stores. There's a Jewel there. There's a K-Mart,
6 and a few other stores.

7 Q And this is at about 4:30 in the morning?

8 A Correct.

9 Q Were the stores in that strip mall closed
10 at that time?

11 A Yes.

12 Q Do you know if there was anything open?

13 A Just the Dunkin' Donuts which was at the
14 opposite end of that strip mall.

15 Q Now, when you pulled in, who is the first
16 person you saw?

17 A When we pulled into the lot, we noticed a
18 gentleman on a pay phone. And as we pulled in, he
19 was pointing towards the Blockbuster, waving us
20 towards the Blockbuster.

21 Q Did you then go to the Blockbuster?

22 A Yes.

23 Q When you got to the Blockbuster, what did
24 you see?

1 A As we pulled up, I saw the defendant
2 standing in front of a broken window holding in his
3 hands several DVD cases and VHS tapes. And then,
4 he looked in our direction, at which time we made
5 eye contact, at which time he dropped those cases
6 and started to walk away from the window.

7 Q And when you say the defendant, do you
8 see the person who you're referring to as the
9 defendant here in court today?

10 A Yes, ma'am, I do.

11 Q Can you please point that person out, and
12 identify an article of clothing that person is
13 wearing?

14 A Yes. It's the gentleman sitting down
15 over there wearing the tan DOC outfit.

16 MS. CALLAS: I'd ask that the record reflect
17 the in-court identification of the defendant.

18 THE COURT: Yes.

19 MS. CALLAS:

20 Q Now, about how far from -- describe the
21 window.

22 A It's kind of like a large picture window,
23 but there's separate panes of glass. There's
24 little windows in them. There was probably like a

1 four by four pane of glass, like twelve panes, I
2 believe.

3 Q And one of them was broken?

4 A Yes.

5 Q How far was the defendant, when you first
6 saw him, from that window?

7 A Within an arm's length of the window.

8 Q And he had all these items in his hands?

9 A Correct.

10 Q After he dropped those items and walked
11 away, what did you do?

12 A That's when I exited my vehicle,
13 announced my office, and I took him and placed him
14 into custody.

15 Q After you took him into custody --
16 Actually, let me back up.

17 What were the lighting conditions like at
18 4:30 in the morning at that Blockbuster?

19 A It was dark, but there was artificial
20 lighting in the parking lot.

21 Q Those large lights you see?

22 A There was ample light.

23 Q After you took him into custody, did
24 anyone else from the police department come?

1 A Yes. Two other officers pulled up.

2 Q Do you recall their names?

3 A Officer Lee and Officer, Pargoni
4 (phonetic).

5 Q That was after you had taken the
6 defendant into custody?

7 A Yes. I handcuffed him, and then, that's
8 when they arrived.

9 Q When they arrived, did any other civilian
10 approach you?

11 A Yes, they did.

12 Q Who approached you?

13 A The gentleman that was on the telephone
14 that directed us to the Blockbuster approached, and
15 we had a conversation.

16 Q Do you now know that person's name to be
17 Jose Pagan?

18 A Yes, I do.

19 Q Jose Pagan had a conversation with you
20 and your fellow officers?

21 A Yes.

22 Q After that conversation, did any of your
23 fellow officers leave the area where you work?

24 A Officer Lee did.

1 Q Where did she go?

2 A She walked to a garbage can that was
3 located approximately 250 feet away from the broken
4 window and retrieved a garbage bag that was
5 containing several more DVD cases and VHS tapes.

6 Q Can you describe -- could you see the
7 garbage can?

8 A Yes, I could.

9 Q Can you describe what kind of garbage can
10 it was?

11 A It was a wire basket garbage can with a
12 top on it that, when you lift it, you can pull the
13 garbage bag out.

14 Q And after you observed Officer Lee
15 recover this bag, what did she do with it?

16 A I saw her place it in her vehicle and
17 bring it to -- into the 14th District for us.

18 Q Before she put it in her vehicle, what
19 happened to the videos that were on the floor that
20 you saw the defendant drop?

21 A I retrieved those videos, and I just
22 placed them in the bag with the other videos.

23 Q Did you notice any garbage in the bag
24 aside from all the videos?

1 A None at all.

2 Q Now, do you know where Jose Pagan is
3 today?

4 A Currently? Yes. He moved to Florida.

5 MS. CALLAS: Your Honor, may I approach?

6 THE COURT: Yes.

7 MS. CALLAS:

8 Q Officer, I'd like --

9 THE COURT: Have you shown them to the
10 defendant?

11 MS. CALLAS: He's got copies of them.

12 THE COURT: The record will reflect the State
13 is showing those to defendant.

14 MS. CALLAS:

15 Q I'd like to show you what's been marked
16 as People's Exhibit 1 for identification. Do you
17 recognize what that's a photograph of?

18 A Yes. That's the window at the
19 Blockbuster.

20 Q And does that show the window that's
21 broken?

22 A Yes, it does.

23 Q How many windows are broken?

24 A Just one.

1 Q I'd like to now show you what's been
2 marked as People's Exhibit 2.

3 A It's the same photograph, just close up.

4 Q Does that also show the broken window?

5 A Yes.

6 Q People's Exhibit 3, can you say what that
7 is a photograph of?

8 A That's a sign for the Blockbuster at that
9 location.

10 Q And do all these photos truly and
11 accurately depict how the windows and the
12 Blockbuster sign looked on February 25, 2004, at
13 approximately 4:30 in the morning?

14 A Yes.

15 Q With regards to the items that Officer
16 Lee puts -- the garbage bag full of the videos --

17 A Uh-uhm.

18 Q -- you said she put that in her squad
19 car?

20 A Yes.

21 Q Did you see that bag again?

22 A Yes, I did.

23 Q Where did you see it?

24 A When we went into the station, Officer

1 Lee brought the bag and gave it to me.

2 Q What did you do with the bag when she
3 gave it to you?

4 A At that time, I inventoried the items,
5 taking them out of the garbage bag, and putting
6 them in that inventory bag right there.

7 Q Now, when you say you inventoried the
8 items, did you place them in the evidence bag and
9 give them a unique inventory number?

10 A Yes, I did.

11 Q Was that inventory No. 10281365?

12 A Yes.

13 Q And did you heat seal the bag in your
14 presence?

15 A Yes, I did.

16 Q I'd like to show you what's been marked
17 as People's Group No. 4 for identification. Do you
18 recognize this bag?

19 A Yes, I do.

20 Q And what is that bag?

21 A This is the inventory bag that I put the
22 videos that we recovered in.

23 Q And those are all the videos that were
24 recovered?

1 A Yes, they were.

2 Q From the ground as well as the garbage
3 can?

4 A Correct.

5 Q And is that heat sealed?

6 A Yes, it is.

7 Q I'm going to ask if you could please cut
8 that bag open?

9 For the record, the officer has now cut
10 the heat sealed back open.

11 And that contains the videos that you
12 recovered again?

13 A Yes.

14 MS. CALLAS: Give me that back.

15 At this time, I have nothing further from
16 this witness.

17 THE COURT: Cross-examination.

18 THE DEFENDANT: Yes.

19

20 CROSS EXAMINATION

21 BY THE DEFENDANT:

22 Q Officer, how long have you been an
23 officer with the Chicago Police?

24 A Approximately two and a half years.

1 Q Two and a half years. Now, during your
2 training at the academy --

3 A Yes.

4 Q -- there's an offense report filled out?

5 A Correct.

6 Q Correct?

7 A Yes.

8 Q Do you have a copy of that offense
9 report?

10 A Not on me at this time.

11 Q That's what you use on the streets when
12 crimes or something happen?

13 A General case offense reports.

14 Q Report. Now, do you use that on the
15 street in case you see something, you write it down
16 to refresh your memory, is that correct, because
17 you're trained at the academy to do this, right?

18 When you pull up and you see something,
19 you write it down so you refresh your memory, is
20 that correct?

21 A A report is needed, yes, sir. We can do
22 it on scene.

23 Q Isn't that required as a police officer?
24 You're trained as a police officer to do this in

1 case you see something, you write it down?

2 A It's not required to do it on scene. If
3 a report deems necessary, yes, we have to.

4 Q But if something, like you giving a
5 person a ticket or something like that, and you
6 have this in the car with you, is that correct?

7 A Yes, I have the reports.

8 Q And you were trained at the academy to
9 have this arrest report offense report so when you
10 see something that's very important, you write it
11 down to refresh your memory?

12 A You need to speak a little more for me.
13 Is the offense report the report or the arrest
14 report? Which one are you talking about?

15 Q Offense report, arrest report. You use
16 this as a police officer? You're trying to use
17 this?

18 A An arrest report, we do not do on the
19 scene.

20 Q You do not do on the scene?

21 A No.

22 Q You just think of something as a trained
23 police officer and just write anything down?
24 That's what they teach you at the academy?

1 MS. CALLAS: Objection.

2 THE COURT: Sustained.

3 Why don't you ask another question?

4 THE DEFENDANT:

5 Q Do you have a copy of that offense arrest
6 report?

7 MS. CALLAS: Objection.

8 THE COURT: He can answer --

9 MS. CALLAS: There are two separate things.

10 THE COURT: -- if he understands the
11 question.

12 THE WITNESS: Do you want a copy of the case
13 report, or do you want a copy of the arrest
14 report?

15 THE DEFENDANT:

16 Q The offense arrest report.

17 A I don't have one with me, but I'm sure
18 they can produce one for me.

19 THE DEFENDANT: State, can you give him a
20 copy, please?

21 MS. CALLAS: Objection. No.

22 THE COURT: What report are you --

23 THE DEFENDANT: The offense arrest report that
24 you use on the streets. It's required that you use

1 on the streets, you know, when you see something,
2 you write it down.

3 THE COURT: Mr. Griffin, you can only ask one
4 question at a time.

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: If you ask a question, wait and
7 let him answer it. You're asking about a string of
8 three or four questions.

9 THE DEFENDANT:

10 Q The offense arrest report, do you have a
11 copy of it?

12 A There's a general offense case report,
13 and then, there's an arrest report. Those are two
14 different reports.

15 Q And they happen to bear your signature,
16 is that correct, and star number, the date and time
17 that you see something --

18 A Yes.

19 Q -- is that correct? What I want to show
20 you is --

21 THE COURT: Mr. Griffin, if you want to show
22 an exhibit, you're going to hand it to the deputy.

23 THE DEFENDANT: Deputy, could you hand him
24 these copies?

1 THE COURT: And you mark that as an exhibit,
2 sir.

3 THE DEFENDANT: Exhibits 5, 6 and 7, what the
4 State's Attorney gave to me.

5 THE COURT: Show it to the State. What
6 exhibit number is it marked as, sir?

7 THE DEFENDANT: 5, 6, and 7, five pages of
8 what they gave to me.

9 MS. CALLAS: For the record, it's a five page
10 Chicago Police Department arrest report.

11 THE COURT: Is it marked as Defendant's
12 Exhibit No. 1?

13 THE DEFENDANT: No. 1.

14 THE COURT: It can be marked as Defendant's
15 Exhibit No. 1. Mark it as Defendant's Exhibit No.
16 1.

17 THE DEFENDANT: Yes.

18 THE COURT: Hand it to the deputy. It
19 consists of five pages, and it can be shown to the
20 witness. The record will reflect that the exhibit
21 has been tendered to the witness.

22 THE DEFENDANT:

23 Q That's your arrest report, is that
24 correct?

1 A This is the arrest report, yes, sir.

2 Q And that's what you use on the street, is
3 that correct?

4 A No, sir.

5 Q That's not the one you use on the street?

6 A No.

7 Q Well, what happened to the one you use on
8 the street, sir?

9 A I didn't do a report on the street, but
10 you're talking about the general offense case
11 report.

12 Q Yes.

13 A Yes, sir.

14 Q You didn't do a report?

15 A Yes, we did.

16 Q Where is that report?

17 A There's copies of it, I'm sure. I'm sure
18 you have a copy of it, as I'm sure the State does,
19 also.

20 THE COURT: State, why don't you provide a
21 copy of the report? It's been tendered.

22 MS. CALLAS: There's an extra copy. I'll give
23 you an extra copy.

24 THE COURT: The record will reflect the State

1 has tendered a two page document.

2 MS. CALLAS: Correct. It's redacted.

3 THE COURT: If you want to use it as an
4 exhibit, mark it as Defendant's exhibit.

5 THE DEFENDANT: Defendant's Exhibit No. B.

6 THE COURT: The defendant's exhibit consists
7 of a two page document, and if you'll hand it to
8 the deputy who will hand it to the witness,
9 please.

10 THE DEFENDANT:

11 Q Is that your offense arrest report?

12 A This is the general offense case report.

13 Q Does it happen to bear your signature?

14 A No, it does not.

15 Q Does it happen to bear your star number?

16 A No, it does not.

17 Q And it's required that you have this on
18 the street so when you see something, you write it
19 down, isn't it correct, sir?

20 A Correct.

21 Q So, where is that offense arrest report
22 with your signature and your star number on it,
23 sir?

24 A This is the other officers that were on

1 scene. That's their signatures at the bottom.

2 Q You was one of the arresting officers, is
3 that correct?

4 A Yes, I was.

5 Q So, you was on the scene, is that
6 correct?

7 A Yes, I was.

8 Q So, you're lying then, is that correct?

9 MS. CALLAS: Objection.

10 THE COURT: Sustained. Why don't you ask
11 another question?

12 THE DEFENDANT:

13 Q Does any one of those arrest reports
14 happen to bear your signature, sir?

15 A Yes, it does. On -- let's see. I
16 believe it's page 3, where it says arresting
17 officers. It says the first arresting officer, and
18 there's my name and star number.

19 Q So, your signature, handwritten
20 signature?

21 A This report does not require a
22 signature. It's an electronic signature.

23 Q It's electronic from a typewriter?

24 A No.

1 Q From Area 5 District, right?

2 A From the 14th District, yes.

3 Q The 14th District?

4 A Yes.

5 Q But doesn't it say Area 5 at the top,
6 sir, generated from a computer, sir?

7 A Yes.

8 Q So, you're lying?

9 MS. CALLAS: Objection.

10 THE COURT: Sustained.

11 THE DEFENDANT:

12 Q So, you don't know exactly -- you don't
13 know what happened. You never saw anything on that
14 day without your offense arrest report, do you,
15 sir? You are under oath, Officer. What I have in
16 my possession --

17 THE COURT: You're asking about ten questions.

18 THE DEFENDANT:

19 Q -- the arrest report --

20 THE COURT: Mr. Griffin.

21 THE DEFENDANT:

22 Q So, when you see something, the relevance
23 of this is, this is --

24 THE COURT: Mr. Griffin, you can ask all the

1 questions you want, but you have to ask them one at
2 a time.

3 THE DEFENDANT: I'm asking one at a time.

4 THE COURT: You asked about ten questions.

5 THE DEFENDANT:

6 Q This is concerning his arrest report that
7 you use on the streets when you see something?

8 A Excuse me?

9 Q Your offense arrest report?

10 A What about it?

11 Q When you see something on the street that
12 happens --

13 A Could you please refer to it as an arrest
14 report and offense case report, please, because
15 there are two reports.

16 Q Neither one of those happen to bear your
17 signature, does it, sir?

18 A This one does, yes.

19 Q Could you show me where it bears your
20 signature?

21 A First arresting officer, Star No. 15875,
22 Blomstrand, MPCOW 560. That is my computer
23 generated code.

24 Q That's there at the police station?

1 A Yes.

2 Q That wasn't there on the streets while
3 you were on the streets?

4 A No, it was not.

5 Q So, you're lying?

6 MS. CALLAS: Objection.

7 THE COURT: Sustained.

8 THE DEFENDANT:

9 Q Am I correct?

10 THE COURT: Ask another question, please.

11 THE DEFENDANT: Your Honor, what I have in my
12 possession is an offense arrest report that the
13 Chicago Police uses on the streets.

14 MS. SCHULTZ: Can I see the document, please?

15 MS. CALLAS: I have not seen it.

16 THE DEFENDANT: Thank God that I happen to --

17 MS. CALLAS: Objection to the continuing
18 commentary.

19 THE COURT: Mr. Griffin, show the document.

20 THE DEFENDANT: -- be in possession of this.

21 THE COURT: Are you intending to use that as
22 an exhibit, sir?

23 THE DEFENDANT: Exhibit 3B.

24 THE COURT: Defendant's Exhibit No. 3. You

1 don't need the B, sir.

2 THE DEFENDANT: I would like to tender this to
3 the officer.

4 THE COURT: The record will reflect that the
5 witness has been handed, through the deputy,
6 Defendant's Exhibit No. 3.

7 THE DEFENDANT:

8 Q That is an offense arrest report that's
9 used on the streets, isn't it, sir?

10 A Arrest reports are not done on the
11 street; but yes, this is an arrest report.

12 Q That's just like the one you use on the
13 streets. You write down something you see?

14 A Yes. This is an old arrest report.

15 Q That's an older one. How old is that
16 one?

17 A The date on this one is 2004.

18 Q 2004?

19 A Yes.

20 Q So, this one here and the time of the
21 crime happened in 2004, is that correct?

22 A Yes.

23 Q So, they was still in effect, is that
24 correct?

1 A Yes.

2 THE DEFENDANT: No further questions, your
3 Honor.

4 THE COURT: Sir, let the deputy hand you the
5 exhibit.

6 MS. CALLAS: Actually, Judge, can I see that
7 exhibit, please?

8 THE COURT: Yes. Redirect.
9

10 REDIRECT EXAMINATION

11 BY MS. CALLAS:

12 Q Officer, every time an arrest is made, a
13 police report is generated, correct?

14 A Correct.

15 Q That's what's called a general offense
16 case report?

17 A Yes.

18 Q That's this two page document, is that
19 correct?

20 A Yes, ma'am, it is.

21 Q In this case, this document was not
22 filled out by you, isn't that correct?

23 A Correct.

24 Q Your name is on it?

1 A Yes, ma'am, it is.

2 Q Officer Lee and Pargoni, they're the ones
3 that filled out the report?

4 A Yes.

5 Q That's general. Some will fill out one
6 report, some the other, or some none?

7 A Yes.

8 Q With regards to the arrest report that
9 was handed to you, this five page, this is computer
10 generated, is it not?

11 A Yes, ma'am, it is.

12 Q So, there's no actual, physical
13 signature? It's an electronic signature?

14 A Yes.

15 Q And that report was done by you and your
16 partner Officer Prill?

17 A Yes, ma'am.

18 Q This is from the 14th District, correct?

19 A Yes.

20 THE COURT: Reflecting which exhibit?

21 MS. CALLAS: Defendant's Exhibit No. 1.

22 Q With regards to Defendant's Exhibit No.
23 3, what district is this arrest report from?

24 A 7th District, I believe.

1 Q The 7th district is not the 14th
2 District, isn't that correct?

3 A Correct.

4 Q Do you know whether or not the Chicago
5 Police Department was currently in the process from
6 moving from this old arrest report to this new
7 computerized arrest report?

8 A Yes.

9 Q Some police districts still use the old
10 reports because they don't --

11 A Actually, the majority of the districts
12 still use the hard copy of a case report, and
13 they're in the process of changing it all to
14 electronic computer style.

15 Q So, if someone were arrested today in a
16 certain district, they could still have this one
17 page arrest report?

18 A Yes.

19 Q But in the 14th District, they're going
20 to get five pages?

21 A Yes.

22 Q It's normal that they would be different
23 in different places?

24 A Yes.

1 THE COURT: Anything further? That's all the
2 questions the State has at this time?

3 MS. CALLAS: That's all.

4 THE COURT: Any further questions?

5 THE DEFENDANT: Yes, your Honor.
6

7 RECROSS EXAMINATION

8 BY THE DEFENDANT:

9 Q Officer, you never appeared before Judge
10 Gerald T. Wienicki concerning this matter on
11 February the 27th, 2004, did you, sir?

12 A No, I did not.

13 Q But you was aware that a preliminary
14 hearing took place concerning this case?

15 A Did it take place here?

16 Q No. At the 15th District -- 25th
17 District, Grand and Central?

18 A Oh, at Grand and Central.

19 Q Yes.

20 A I was at that hearing. Yes, I was.

21 Q And you never gave Judge Gerald T.
22 Wienicki statements concerning --

23 A Are you referring to Judge Wienicki?

24 Q Yes. You never gave him any statements

1 concerning this case, did you, sir?

2 MS. CALLAS: Objection, relevance.

3 THE COURT: He can answer.

4 THE WITNESS:

5 A No, I did not.

6 THE DEFENDANT:

7 Q Could you tell the ladies and gentleman
8 of the jury why didn't you give statements to Judge
9 T. Wienicki when you was in this courtroom
10 concerning this case?

11 A Because at that time, it was just a
12 probable cause hearing to determine whether there
13 was probable cause to arrest you. After talking to
14 the witness and after talking to the manger of
15 Blockbuster, the Judge ruled that there was
16 probable cause and didn't need to talk to me.

17 Q He didn't need to talk to you?

18 A He didn't need my testimony at that
19 point.

20 Q He didn't need to talk to you, and you
21 didn't need to give statements concerning this
22 case?

23 A No.

24 Q That's what he told you, or that's what

1 you're saying?

2 A The State's Attorney came into the
3 separate room where they held me so, I didn't hear
4 the other testimony, and told me that there was
5 probable cause.

6 Q Right. Now, the State showed you the
7 window that was broken. Do you know what caused
8 that window to become broken?

9 A No, I did do not.

10 Q Did you see who broke this window?

11 A No, I did not.

12 Q Was any evidence recovered that broke
13 this window?

14 A Not that I know of.

15 Q Was any fingerprints taken of this place?

16 A No, not that I know of.

17 Q Now, you stated that you observed tapes
18 being dropped, is that correct?

19 A Correct.

20 Q Now, in crimes like this here, you get
21 evidence and if you see somebody with something,
22 right, you get it, and then you take it to the lab,
23 and then you analyze it, and then you take
24 fingerprints, is that correct?

1 A Depending on the crime, yes.

2 Q No. Depending on all crimes, if you got
3 a crime scene, that's what you do so you can prove
4 that this person is the right person that we got,
5 is that correct?

6 A Like I said, depends, for example, on the
7 crime, yes.

8 Q But you're trained to do this from the
9 academy?

10 A I'm trained to recover property that's
11 been stolen and so forth, and inventory it.

12 Q That was stolen. That's taken from
13 something, and that's recovered. Do you, and are
14 you required, to analyze and take fingerprints,
15 say, like the video tapes?

16 A Um-uhm.

17 Q Were fingerprints taken from those video
18 tapes?

19 A No, they were not.

20 Q You were trained to do this?

21 A I was never trained to take fingerprints,
22 no.

23 Q But was a technician called?

24 A Yes. There was an evidence technician

1 called to the scene, yes.

2 Q And were fingerprints taken?

3 A No.

4 Q They were -- no fingerprints was never
5 taken?

6 A No.

7 Q But you observed someone dropping --

8 A I observed you dropping the tapes.

9 Q You observed me dropping the tapes?

10 A Yes.

11 Q To prove what you were saying, if I had
12 my hands on any one of those tapes, fingerprints of
13 mine were on those tapes. Were they lifted off
14 those tapes?

15 A It wouldn't be reasonable to take
16 fingerprints. How many people have handled those
17 tapes and how many different fingerprints would
18 come off those tapes, it wouldn't be reasonable to
19 do such a thing.

20 Q But now, during that night, you say 4:30
21 in the morning?

22 A Uh-uhm.

23 Q There wasn't no one out there but me,
24 correct?

1 A Correct.

2 Q You observed me dropping tapes?

3 A Yes.

4 Q And you picked this evidence, you got the
5 right man?

6 A Uh-uhm.

7 Q So, the tapes I had that you lift
8 fingerprints off of to prove what you're saying is
9 true?

10 MS. CALLAS: Objection, asked and answered.

11 THE COURT: It's already been --

12 THE DEFENDANT:

13 Q You say I dropped two tapes?

14 A The amount I don't have, but there were
15 several.

16 Q If you had arrest reports, you write down
17 everything, and then you read --

18 A I don't remember anything or --

19 Q You don't remember anything, do you,
20 Officer?

21 A How many you dropped? Are you asking me
22 how many you dropped? Is that what you want me to
23 say?

24 Q Yes.

1 A It was between five and ten.

2 Q And where did I drop them, my left hand,
3 right hand?

4 A Both hands.

5 Q Could you stand up and show the ladies
6 and gentlemen how I did this? Please, could you
7 show them how this was did this morning?

8 A Yeah.

9 Q How I was carrying it.

10 A I saw you standing there, and you had
11 them clunched up to your chest, and a bunch of them
12 like this. You looked towards my direction. You
13 saw that I was there, and you dropped them, and
14 started to walk away.

15 Q And I started to walk away?

16 A Yes.

17 Q At that point in time when you observed
18 the subject allegedly say drop them, if I had
19 anything in my possession that belonged to
20 Blockbuster, my fingerprints would be on it, is
21 that correct?

22 A Among the other millions of fingerprints
23 that are on them already, probably.

24 Q You recovered the ones that I dropped, is

1 that correct?

2 A Yes, I did.

3 Q Right their on the crime scene. And how
4 far away were you when you observed me dropping
5 some tapes? Were you in your car, or were you
6 walking?

7 A I was in the car.

8 Q Aunt how far away were you, sir?

9 A Approximately 20 to 30 feet.

10 Q And it was dark outside?

11 A No. It was lighted. It was a lighted
12 parking lot.

13 Q It was 4:30 in the morning, and it was
14 dark outside?

15 A Yes, but --

16 Q And you were in your car. Which way were
17 you headed, east, west?

18 A I was facing west.

19 Q In the vehicle?

20 A In the vehicle.

21 Q On what street were you on, sir?

22 A We were in the parking lot.

23 Q The parking lot?

24 A Yes.

1 Q You were headed west in the parking lot?

2 A Uh-uhm.

3 Q Which way did you enter the parking lot?

4 A We entered in the east.

5 Q From the east?

6 A Off of Ashland.

7 Q What street is that?

8 A Off of Ashland.

9 Q You pulled in off of Ashland?

10 A Correct.

11 Q This place is a mall, is that correct?

12 So, that means you had to come all the way from
13 Ashland and pull all the way around, and received a
14 call, is that correct?

15 A Correct.

16 Q And the person you received the call,
17 he's in Florida?

18 A Correct.

19 Q He left and went to Florida. An
20 important case like here, he went to Florida?

21 A I don't know why he moved to Florida.

22 Q Jose Pagan, is that correct, because he
23 gave statements at the preliminary hearing before
24 Judge Gerald T. Wienicki, February 27, 2004. You

1 remember, is that correct, because you was at the
2 proceedings?

3 A I didn't hear his testimony, no. I
4 wasn't allowed to hear it.

5 Q But the tapes what we're talking about
6 what you're saying is true, if I had those tapes,
7 my fingerprints would be lifted off those tapes?

8 MS. CALLAS: Objection.

9 THE COURT: Sustained.

10 THE DEFENDANT:

11 Q Am I correct?

12 MS. CALLAS: Objection.

13 THE COURT: Objection sustained. Ask another
14 question, sir.

15 THE DEFENDANT: No further questions, your
16 Honor.

17 THE COURT: State have any additional
18 questions of this witness?

19 MS. CALLAS: Brief redirect.
20

21 FURTHER REDIRECT EXAMINATION

22 BY MS. CALLAS:

23 Q Prior to the time that you arrested this
24 defendant, did you know him?

1 A No.

2 Q Did you have anything against him?

3 A No.

4 MS. CALLAS: Nothing further.

5 THE COURT: Anything further?

6 THE DEFENDANT: One further thing.

7 THE COURT: Based on that?

8 THE DEFENDANT: Yes.

9

10 FURTHER RECROSS EXAMINATION

11 BY THE DEFENDANT:

12 Q Officer, did you observe me take anything
13 out of Blockbuster on that day?

14 A No, I did not.

15 Q You just seen me walking away from
16 Blockbuster?

17 A With Blockbuster property.

18 Q With Blockbuster property. And you were
19 in your car driving, and you were 20 feet away, and
20 it was dark outside?

21 A I was the passenger, sir.

22 Q You was the passenger, and you was coming
23 west off of Ashland?

24 A Correct.

1 Q Correct? But now, this Blockbuster is
2 kitty-corner, it's like inside a mall, is that
3 correct?

4 A Yes.

5 Q It would be impossible for you to come
6 there, within coming back west inside this mall,
7 and you're heading east, isn't that correct,
8 Officer?

9 A I was headed west.

10 Q You were headed west?

11 A Yes.

12 Q Coming from east?

13 A Oh, yeah. I came off of Ashland from
14 east, right.

15 Q You came off of Ashland. That's east?

16 A Yes.

17 Q And you headed west?

18 A Yeah.

19 Q Towards Damen. So, now you're inside the
20 mall?

21 A Uh-uhm.

22 Q And you're coming across, and how far
23 Blockbuster is from Ashland?

24 A Maybe half a block.

1 Q Half a block?

2 A Yeah. It's a fairly large strip mall,
3 yes.

4 Q Is it approximately maybe two or three
5 blocks?

6 A I wouldn't say that big, but --

7 Q So, is the time you entered the lot,
8 that's when you observed me, is that correct?

9 A No. I didn't observe you until I pulled
10 up to the Blockbuster.

11 Q Until you pulled up to the Blockbuster?

12 A Correct.

13 Q Correct. And you received a call that a
14 burglary was in progress?

15 A Yes.

16 Q And the person you received it from would
17 be Jose Pagan?

18 A Yes.

19 Q And he's not here today. Is he here?

20 A No, he's not.

21 Q He left and went to Florida?

22 A Yes; that's correct.

23 Q On an important case as this?

24 MS. CALLAS: Objection.

1 THE COURT: Sustained.

2 THE DEFENDANT:

3 Q Is that correct, Officer?

4 THE COURT: Objection sustained. Ask another
5 question, sir.

6 THE DEFENDANT: No further questions, your
7 Honor.

8 MS. CALLAS: Nothing further.

9 THE COURT: Thank you.

10 (Witness excused.)

11 THE COURT: State may call their next witness.

12 MS. CALLAS: People call Officer Lee.

13 (Witness sworn.)

14

15 OFFICER ALYSE LEE,

16 A witness called on behalf of the People of the
17 State of Illinois, having been first duly sworn,
18 was examined and testified as follows:

19 DIRECT EXAMINATION

20 BY MS. CALLAS:

21 Q Officer, could you please introduce
22 yourself to the ladies and gentlemen of the jury,
23 and give your star number?

24 A Officer Alyce Lee, last name L-e-e, Star

1 No. 19888.

2 Q And what is your current unit of
3 assignment?

4 A 14th District.

5 Q And you're a Chicago Police Officer, is
6 that correct?

7 A Yes, ma'am.

8 Q How long have you been a Chicago Police
9 Officer for?

10 A Nine and a half years.

11 Q Directing your attention to February 21,
12 2004, at approximately 4:30 a.m., were you working
13 at that time?

14 A Yes.

15 Q And were you working alone or with a
16 partner?

17 A With a partner.

18 Q What is your partner's name?

19 A Officer Rick Pargoni.

20 Q And were you in full uniform as you are
21 today?

22 A Yes.

23 Q And were you in a vehicle?

24 A Yes.

1 Q What kind of vehicle?

2 A A marked squad car.

3 Q Is that a regular Chicago Police car with
4 the lights on top?

5 A Yes.

6 Q Did you go and your partner go to 1303
7 North Milwaukee Avenue on that date and time in
8 Chicago, Cook County, Illinois?

9 A Yes.

10 Q When you got to that location, did you
11 see anyone that you see here in court today?

12 A Yes.

13 Q Can you please point out the person that
14 you saw, an article of clothing the person is
15 wearing?

16 A There, Dwayne Griffin. He's wearing a
17 beige top.

18 MS. CALLAS: I'd ask the record reflect the
19 in-court identification of the defendant.

20 THE COURT: Yes.

21 MS. CALLAS:

22 Q Where did you see the defendant?

23 A At the Blockbuster at that location.

24 Q Who was he with?

1 A He was with Officer Matt Blomstrand.

2 Q Anyone else?

3 A And his partner Joseph Prill.

4 Q Was he in custody at that point?

5 A Yes, ma'am, he was.

6 Q He had already been arrested?

7 A Yes.

8 Q Were you and your partner and the other
9 officer approached by an individual by the name of
10 Jose Pagan at that time?

11 A Yes.

12 Q Did Jose Pagan have a conversation with
13 all of you?

14 A Yes.

15 Q After that conversation, did you go
16 anywhere?

17 A Yes.

18 Q Where'd you go?

19 A I walked approximately 200, 250 feet away
20 from the original spot where we were standing at
21 that time to a garbage can.

22 Q Can you describe the garbage can?

23 A The garbage can is a wire basket that has
24 a lid to it that is a hole to receive garbage

1 items.

2 Q Was there a plastic bag in there?

3 A Yes.

4 Q When you went over to the garbage can,
5 what did you find?

6 A I found a garbage bag inside containing
7 various cassette tapes and --

8 Q Was there any indicia on the -- at the
9 same time who they belonged to?

10 A Yes, there was.

11 Q Who was that?

12 A Blockbuster.

13 Q And after you recovered these items, did
14 you take the garbage bag out?

15 A Yes.

16 Q Where did you go with that?

17 A I walked back over to Officer
18 Blomstrand.

19 Q And then, what happened?

20 A He placed inside the garbage bag that I
21 already had more DVDs and video cassettes tapes.

22 Q And did he say where he recovered those,
23 where he got those?

24 A Yes.

1 Q From where?

2 A From the ground where Mr. Dwayne Griffin
3 was arrested.

4 Q Was there a window nearby?

5 A Yes.

6 Q How far was the window?

7 A Just on the ground beneath.

8 Q Just beneath. What were the conditions
9 of those windows, if anything? Did you notice?

10 A There was one window broken.

11 Q After you took that bag -- I'm sorry.

12 After Officer Blomstrand put the additional DVDs
13 and videos in the bag, what did you see with that?

14 A I brought that garbage bag with DVDs and
15 cassettes back to my vehicle, yes.

16 Q And did you transport it anywhere?

17 A Yes, back to the 14th District.

18 Q What did you do with them at the 14th
19 District?

20 A I turned them over to Officer Blomstrand.

21 Q Did you see what he did with them?

22 A He inventoried those items.

23 Q Did you see him put them in an evidence
24 bag?

1 A Yes, I did.

2 MS. CALLAS: May I approach, your Honor?

3 THE COURT: Yes.

4 MS. CALLAS:

5 Q I ask you to look at what's been marked
6 People's Exhibit No. 1. Do you recognize that?

7 A Yes.

8 Q What is that?

9 A It's a broken window out of many sets of
10 windows of Blockbuster.

11 Q And I'd like you to look at what's been
12 marked as People's Exhibit 2. Do you recognize
13 what that is?

14 A It's a closer picture of the same window.

15 Q And I'd like to show you what's been
16 marked as People's Exhibit 3. Do you recognize
17 that, of what that's a photograph of?

18 A Yes. It's the Blockbuster sign above
19 those windows.

20 Q Do 1 through 3 show how it looked on
21 February 21, 2004?

22 A Yes, they do.

23 Q I'd like to now show you what's been
24 marked People's Group No. 4. Do you recognize all

1 of the items in this bag?

2 A Yes, ma'am.

3 Q And what are items in this bag?

4 A Those are the various DVD cases, VHS
5 tapes that I recovered from the garbage can.

6 Q Does that include the items Officer
7 Blomstrand put in the bag underneath the window at
8 Blockbuster?

9 A Yes, ma'am, it does.

10 Q These are the items you transported back
11 in the district?

12 A Yes.

13 Q Are they substantially in the same
14 condition as when they were recovered?

15 A Yes, they are.

16 MS. CALLAS: Nothing further, your Honor.

17 THE COURT: Cross-examination.

18 THE DEFENDANT: Yes.

19

20 CROSS EXAMINATION

21 BY THE DEFENDANT:

22 Q Officer Lee, how long have you been an
23 officer?

24 A Nine and a half years.

1 Q Nine and a half years. Now, during your
2 nine and a half years as a police officer, there's
3 an offense arrest report made out?

4 A Yes.

5 Q Is that correct?

6 A Yes.

7 Q This is not the offense arrest report, is
8 it, ma'am?

9 A No, sir.

10 Q Because it happens to bear officers'
11 signatures and star numbers and the date and time
12 that they observed something happen. You know,
13 when they see something, is that correct?

14 A I'm not sure I understand your question.

15 Q The offense arrest report is used to --
16 when someone is arrested, this is what they're
17 charged with, is that correct?

18 A Yes, sir. That's one form.

19 Q That's one form. Now, on this date and
20 time, did you see who broke that window?

21 A No.

22 Q Do you know what caused that window to
23 become broke?

24 A No.

1 Q Do you know when that window became
2 broken?

3 A No.

4 Q Was any evidence recovered that could
5 have broken that window?

6 A No, sir.

7 Q You never saw me with any of the tapes
8 that the State was showing you, did you, ma'am?

9 A You with them? No.

10 Q And you never saw me take anything out of
11 Blockbuster that day, did you, ma'am?

12 A No.

13 Q And this arrest report that I have here,
14 and it has --

15 MS. SCHULTZ: What?

16 MS. CALLAS: For the record, what exhibit
17 number?

18 THE DEFENDANT: 2B.

19 MS. CALLAS: For the record, he's showing her
20 the general offense case report which is not the
21 arrest report, and that's Defendant's Exhibit 2.

22 THE DEFENDANT:

23 Q But it happens to bear 19888. That's
24 you, and you filled this out, is that correct?

1 A Yes, sir.

2 THE DEFENDANT: Okay. Your Honor, I would
3 like to give this to her.

4 THE COURT: Hand that to the deputy.

5 The record will reflect you're handing
6 what you previously marked as Defendant's Exhibit
7 No. 2, a two page document, is that correct?

8 THE DEFENDANT: Yes.

9 Q Could you read the bottom of it to the
10 ladies and gentlemen of the jury, please?

11 A What part of the bottom?

12 Q The writing down where your name?

13 A You just want my name?

14 Q No. No. No. Where the person is given
15 statements?

16 MS. CALLAS: Objection.

17 THE COURT: Sustained.

18 THE DEFENDANT:

19 Q Where the statement is given.

20 THE COURT: That's an improper question. She
21 can't just read statements from the arrest report.
22 You can ask a question though concerning that.

23 THE DEFENDANT:

24 Q That general offense arrest report, you

1 filled it out, is that correct?

2 A Yes.

3 Q Could you read it to the ladies and
4 gentlemens of the jury? What does it state on
5 there because you filled that out during that
6 process?

7 THE COURT: You're withdrawing your
8 objection?

9 MS. CALLAS: Yes.

10 THE COURT: Okay.

11 THE WITNESS:

12 A In summary, above offender -- witness
13 states that while walking northbound Milwaukee, the
14 rear of 1303 Milwaukee, witness heard glass break.
15 Witness states he observed the offender reach his
16 hands into the broken window removing property as
17 witness stood at the gate, the through passage from
18 Milwaukee to the parking lot and business
19 entrance.

20 Witness observed offender remove
21 property, then walk around the front of the
22 building to the garbage can, then throwing the
23 property into the can. Witnesses observed offender
24 then return to the broken window. 14343, first on

1 scene, observed the offender drop property, then
2 walk, and 14343 placed in custody. RO recovered
3 copies from the trash can, and RO ordered ET for
4 photos of the broken window approximately 12 by
5 12. Offender Mirandized, transported to 14th
6 District.

7 THE DEFENDANT:

8 Q And the person that gave you the
9 information, his name is?

10 A Jose Pagan.

11 Q Do you see that person in the courtroom
12 today?

13 A No, I don't.

14 Q Do you know where that person is?

15 A No, I don't.

16 Q You don't know. Well, the other officer
17 gave testimony that somehow, he left and went to
18 Florida on an important crime as this?

19 A I don't know.

20 Q Well, you never appeared before Judge
21 Gerald T. Wienicki, did you, ma'am?

22 A Pardon me?

23 Q Judge Gerald T. Wienicki?

24 A No.

1 Q Concerning this case, you never appeared
2 before him?

3 A No, I didn't.

4 Q Right, and your offense arrest report,
5 you never filled that out? You didn't fill one
6 out?

7 A The arrest report?

8 Q Right.

9 A No.

10 Q Because you came on the scene a little
11 later after everything had happened, is that
12 correct?

13 A Yes.

14 Q But you did take this statement from
15 Jose?

16 A Yes.

17 Q Yes. And Jose is not here?

18 A No.

19 THE DEFENDANT: No further questions, your
20 Honor.

21 THE COURT: Okay. Thank you.

22 State?

23 THE DEFENDANT: I would like to have the copy
24 back.

1 THE COURT: The deputy will take that and hand
2 it back.

3 State, do you have any further questions
4 of this witness?

5 MS. CALLAS: No, Judge.

6 THE COURT: Okay. Thank you.

7 (Witness excused.)

8 THE COURT: State may call their next
9 witness.

10 MS. SCHULTZ: People are calling Yvette
11 Nueva.

12 (Witness sworn.)

13
14 YVETTE NUEVA,
15 A witness called on behalf of the People of the
16 State of Illinois, having been first duly sworn,
17 was examined and testified as follows:

18 DIRECT EXAMINATION

19 BY MS. SCHULTZ:

20 Q Good afternoon. Please state your name,
21 and spell your last name for the court reporter.

22 A Sure. Yvette Nueva, N-u-e-v-a.

23 Q And how are you currently employed?

24 A I work as an inside sales rep at ITE

1 Distributing. They're a wholesaler of office
2 machines and supplies.

3 Q Calling your attention to February 21st
4 of 2004, where were you employed?

5 A I was at Blockbuster Video. I was the
6 store manager at 1303 North Milwaukee.

7 Q On February 21, 2004, how long had you
8 been so employed at that Blockbuster?

9 A At that location, since March of the
10 prior year.

11 Q March of 2003?

12 A 2003, correct.

13 Q And you were the store manager?

14 A Yes, I was.

15 Q What are the duties and responsibilities
16 of a store manager?

17 A Interviewing, hiring, all retail
18 responsibilities, such as taking inventory,
19 assisting customers with situations, closing out
20 the store, monetary transactions, et cetera.

21 Q Were you working on February 20, 2004,
22 into the early morning of February 21, 2004?

23 A Yes, I was. I was the closing manager
24 for that night from 5:00 p.m. until the store

1 closed which is 1:00 a.m.. And then we, of course,
2 have to stay there and clean up. And so, I left
3 the premises probably like 1:20, 1:30.

4 Q So, you closed the store up, is that
5 correct?

6 A Yes, I did.

7 Q Prior to that, you said you did
8 inventory. What does that entail?

9 A Inventory entails scanning each movie in
10 the store. I had done it a month prior. We are to
11 do it every month. It entails scanning every
12 single product that's in the store for rental as
13 well as for sale, and, you know -- well, of course, ?
14 it's a computer generated report that also the
15 corporation gets as well.

16 Q So, you did all that prior to leaving the
17 store, correct?

18 A Yes.

19 Q And when you left the store, you locked
20 the doors?

21 A Yes, of course.

22 Q And when you left the store at that time,
23 describe -- are there windows at this store?

24 A Yes, there are windows. There's several

1 windows right behind shelving units as well as in
2 the front of the store.

3 Q And did you check to see whether any of
4 those windows were broken at that time?

5 A No windows were broken because I, myself,
6 did the straightening in the store which means we
7 have to make sure the correct movies are behind
8 boxes or the movies are there, just make it look
9 neat and straight.

10 Q So, you left about 1:30 in the morning?

11 A Yes.

12 Q When you left, you locked the door, and
13 you checked the windows, and you secured the
14 building?

15 A Yes, I did.

16 Q Did you later return back to the building
17 at about 6:00 o'clock in the morning?

18 A Yes, I did.

19 Q When you returned, what did you find at
20 the Blockbuster?

21 A The window was broken, and there was a
22 police officer in the squad car.

23 Q Where were the police?

24 A In front of the window that was broken of

1 the store.

2 Q I'd like to show you People's Exhibit No.
3 1 for identification.

4 You've seen these, right?

5 THE DEFENDANT: Yes.

6 MS. SCHULTZ:

7 Q Would you please identify People's
8 Exhibit 1 for identification?

9 A Yeah. This is the window on the side of
10 the store, and there's the broken window right
11 there.

12 Q Describe how many panes of windows there
13 are.

14 A Fifteen.

15 Q And describe the glass that was on
16 windows on February 21st of last year.

17 A Okay. Well, there's a glass that's, of
18 course, normally clear, and then, there's a film
19 that was placed on it due to the sunshine coming in
20 and effecting the video tapes because the tapes
21 were getting damaged.

22 So, what they did, they placed a film on
23 top of each of the windows, and then this window
24 apparently must have been broken at some point in

1 time, not while I was there, but it was replaced
2 without the film. The film was never --

3 Q When you say this window, you're pointing
4 to?

5 A This one right here.

6 Q You're pointing to the bottom window all
7 the way to the left?

8 A Yes.

9 Q And the one next to it?

10 A There is the broken window.

11 Q I'd like to show you People's Exhibit No.
12 2 for identification. What is that a photograph
13 of?

14 A The same window. It's just a more
15 enlarged image, and here you can see through the
16 window, the shelf, the units that stands right in
17 front of the windows, and you can even see, you
18 know, some movies here, like laid down.

19 Q When you left the store, what were in
20 those shelves?

21 A Movies. That was -- the foreign section
22 was there.

23 Q What type of movies?

24 A Foreign movies.

1 Q Was there DVDs?

2 A It's a mix of DVD and VHS, mostly VHS,
3 because I had actually just included that category
4 into the store at that side of the store, what we
5 call the wall, and I had just placed those movies
6 there for better -- more visible for the customer.

7 Q When you say you had just, that day, that
8 week?

9 A That week, I had just moved that section
10 there.

11 Q Had you viewed that section prior to
12 closing the store?

13 A Yes, of course. We have to view every
14 single section, like I said earlier, to make sure
15 the correct movies are behind the boxes and the
16 movies are lined up. They look straight. So, they
17 look fresh for the next opening day.

18 Q Were all those shelves filled?

19 A Yes, they were.

20 Q And the glass all the way to the left?

21 A Uh-uhm.

22 Q The one that's clear, you said how long
23 had that window been in that condition?

24 A Since I got there.

1 Q And you've been there for a year?

2 A Yes, uh-uhm.

3 Q I'd like to show you People's Exhibit No.
4 3 for identification. Do you recognize that?

5 A Yes. That's the Blockbuster sign.

6 Q Where is that located?

7 A At the top of the store all the -- around
8 all the way from the front of the store which is
9 inside the parking lot, all the way around to the
10 Milwaukee side of the store.

11 Q Does People's Exhibit No. 1 and No. 2
12 accurately depict the picture of the window --

13 A Yes.

14 Q -- in Blockbuster on the date in
15 question?

16 A Um-uhm. Yes, they do.

17 MS. SCHULTZ: Can I just have one second,
18 Judge? May I ask that the identification be
19 stricken and the exhibits, Exhibits 1 and 2, be
20 tendered to the jury for them to look at?

21 THE COURT: Admitted into evidence?

22 MS. SCHULTZ: Yes.

23 THE COURT: Any objection to the admission?

24 THE DEFENDANT: No objection.

1 MS. SCHULTZ: May the jury look at them? May
2 I publish them?

3 THE COURT: Yes, they can be published. Pass
4 them through the jury at this time. They will come
5 back to the jury room with you when you do
6 deliberate.

7 Any further questions of this witness?

8 MS. SCHULTZ: Yes.

9 Q I'd like to show you People's Exhibit --
10 Group Exhibit 4 for identification. Do you
11 recognize what is in this clear evidence bag?

12 A Blockbuster movies, VHS and DVD.

13 Q Before we get into that, let me ask you.
14 Once you got back to the store --

15 A Um-uhm.

16 Q -- did you go into the store?

17 A Yes, ma'am, I did. I entered the store.

18 Q What did you do?

19 A I called my district leader, and I
20 informed him of what had happened as well as I went
21 to the area where it had happened, and I counted
22 all the missing spots where the movies were before,
23 and I counted how many were missing, and I counted
24 about 30.

1 Q Did you do anything further?

2 A Yes. I had to wait there, and someone
3 came and gave me -- the police officers came and
4 gave me the report, and then I had to wait for the
5 window to be replaced.

6 Q I'd like to show you these items. I'm
7 going to put them in front of you to make it a
8 little easier.

9 A Okay.

10 Q Let me just take a few of these out. How
11 do you recognize these as belonging to Blockbuster?

12 A Not only do they have the Blockbuster
13 logo, but it also has the address on the corner in
14 the front and in the back of the tape itself to
15 what store it was pertaining to. It tells you
16 right here, 1303 North Milwaukee, Milwaukee and
17 Paulina, which is the store, my store.

18 Q Visually taking a look at these, do you
19 recognize the names of these videos?

20 A Yeah. They're all foreign movies like
21 this one is from, I think, Spain. This one's from
22 Spain. This was from China or something. They're
23 all foreign movies. It also tells you on the spine
24 the category, drama, foreign, and it tells you

1 subtitled which means it's in a different language,
2 and they're subtitled in English, and these are
3 cover boxes.

4 Q What is a cover box?

5 A A cover box is just the original
6 container that the movies came in, but we don't put
7 anything inside of them. They're just to hold the
8 place of movies. And what we do is, we place the
9 rental item right behind them. So, when a customer
10 shops, let's say they want this movie, all they
11 would do is bring this up to the counter, and this
12 contains, like I said, the information, title, what
13 category, the address in the front as well as on
14 the back, and the copy number of the movies because
15 there might be more than one.

16 This is what we have in our inventory.
17 We scan this, and this shows us, you know, how many
18 we have in the store.

19 Q Did you run an inventory after this
20 incident?

21 A Yes, I did, a month later.

22 Q What did you learn?

23 A I learned that I was missing these
24 titles, and they were gone from that section. Of

1 course, it had been broken into.

2 Q Prior to coming the 21st at 6:00 o'clock
3 in the morning, when had you last seen these
4 numerous videos that are before you today?

5 A The night before.

6 Q I'd like to show you the defendant, Mr.
7 Griffin. Do you know this man?

8 A No, I don't.

9 Q Did you ever give him permission to take
10 those videos in People's Exhibit No. 4 --

11 A No, I did not.

12 Q -- for identification from the store?

13 A No, I did not.

14 MS. SCHULTZ: Tender the witness.

15 THE COURT: Do you want to remove the
16 exhibit?

17 MS. SCHULTZ: I'll remove that. I'm sorry,
18 Judge.

19 THE COURT: You may question.

20 THE DEFENDANT: Yes.

21

22 CROSS EXAMINATION

23 BY THE DEFENDANT:

24 Q Ms. Nueva?

1 A Um-uhm.

2 Q Back then, you were the store manager, is
3 that correct?

4 A Yes, I was.

5 Q Yes. And there's an alarm at that place
6 of business?

7 A Yes.

8 Q There was, right?

9 A Yes.

10 Q Did the alarm happen to go off because of
11 a break in at that place?

12 A I'm not sure. I wasn't there. They
13 called at my home and told me there was a break in
14 after the fact.

15 Q After the fact, but no one mentioned
16 anything about an alarm, about it going off?

17 A I don't know who called my home. It
18 could have been the alarm company.

19 Q Right?

20 A That's the company that has all our
21 contact information in case something like this
22 does happen.

23 Q Right? Right?

24 A Um-uhm.

1 Q And you told the jury that it was a month
2 later before you did inventory or something like
3 that?

4 A Well, we have to do monthly inventories.

5 Q Right?

6 A Which means we have to scan everything,
7 and I had already done that.

8 Q You had already done that?

9 A So, I couldn't do it again until the
10 following month when I had to.

11 Q Until the following month?

12 A Um-uhm.

13 Q So, during that time, during the time
14 that the crime had happened, the inventory wasn't
15 did?

16 A I did my inventory.

17 Q Your inventory?

18 A Which I pulled all the reports.

19 Q All the reports?

20 A That had already been ran.

21 Q Right?

22 A I compare to what was missing.

23 Q What was missing?

24 A Open spots that were missing from the

1 area where this window was broken.

2 Q It was 30 tapes altogether missing?

3 A 30 spaces.

4 Q Out of different spaces?

5 A Out of the same area.

6 Q Out of the same area?

7 A Uh-uhm.

8 Q The picture that she showed you, you
9 know, how was a person able to go inside that
10 window and take those tapes?

11 A Through the hole from the window. I
12 mean, there's a shelving unit, as you can see for
13 yourself, that's right in front of the window.

14 Q Right?

15 A So, it's very easy for someone to put
16 their hands in there and pull the movies out. The
17 shelving unit is right in front of the window.

18 Q Right? Right?

19 A You can see where the tapes were at.
20 It's all empty now. It's all been removed.

21 Q The picture she's showing you there, the
22 glass is covered, isn't it, right, the glass right
23 there?

24 A Which glass?

1 Q The glass, you know, that was broken
2 there?

3 A Yes.

4 Q The person, if they are standing on the
5 outside, they couldn't know and see what's on the
6 inside?

7 A But they could see it from the next
8 window which doesn't have the film. You can see
9 this is a clear glass.

10 Q When was that one, the film taken off of
11 that glass?

12 A The film was never put onto this glass.

13 Q Right, but the film was on the other
14 glass?

15 A Yes.

16 Q The one that was broken?

17 A Um-uhm.

18 Q The day of the crime, you never saw me in
19 your place of employment, did you, ma'am?

20 A I didn't see you there.

21 Q And you never saw me with any of your
22 property, did you, ma'am?

23 A I did not see you.

24 Q I'm sorry. Your property came up

1 missing, but I'm the person that's being charged
2 with it, and I just have to ask you a few
3 questions.

4 Now, the alarm never went off at this
5 place, but there is an alarm there?

6 A I don't know if it went off or not. I
7 wasn't there.

8 Q You wasn't there?

9 A I left. I put the alarm on, and I went
10 home, you know, had something to eat, so forth and
11 so on, came back home. My brother told me there
12 was a message for me stating that someone had
13 broken into the store.

14 Q Correct, and you was called?

15 A I don't know who called me. Probably,
16 most likely, the alarm company.

17 Q The alarm company?

18 A Yes.

19 Q But you never was called by the Chicago
20 Police?

21 A I wasn't at home when the phone call was
22 received. I received a message from my brother
23 when I came home.

24 Q Do you know when that window became

1 broken?

2 A That night because I had closed that
3 night. It must have been after I left that night.

4 Q That night, about what time you think it
5 was?

6 A I wasn't there.

7 Q Right, but what time did you leave?

8 A I left around 1:20, 1:30 in the morning.

9 Q In the morning?

10 A Uh-uhm.

11 Q And the window wasn't broken then?

12 A No, it was not.

13 Q Do you know what caused the window to
14 become broken?

15 A I don't know. I wasn't there.

16 Q Do you know if any evidence was found
17 that would have caused that window to be broken?

18 A I was not there.

19 Q You wasn't there, but the window became
20 broken, and you wasn't there, and the alarm never
21 went off or anything?

22 A I don't know. I wasn't there.

23 Q So, you wasn't there. Okay. But 30
24 tapes came up missing somehow?

1 A There was 30 open spaces.

2 Q Open spaces?

3 A Which means 30 items were there, whether
4 they were tapes or cover boxes or DVDs, that I
5 found out later when the inventory was done.

6 Q You found out later?

7 A Uh-uhm.

8 Q A month later?

9 A No. When I did it myself that morning.

10 Q That morning?

11 A Yes.

12 Q So now, you say that the tapes was on
13 like a stand or something?

14 A Just a shelving unit. It's all shelves.

15 Q Right?

16 A Uh-uhm.

17 Q And it's all over the store, right?

18 A All around the store.

19 Q All around?

20 A Including also the middle parts, but this
21 is all around the store where there are windows.

22 Q So, a person couldn't possibly stick
23 their hands in the window and grab anything because
24 you don't have the things to the window where they

1 could just --

2 A Yeah, they can.

3 Q It's put like that?

4 A Yeah.

5 Q You can see it?

6 A It in the picture.

7 Q Someone put it like that?

8 A That's how it's made.

9 Q That's how it's made?

10 A The shelving units are all around the
11 store and all around the store. There may be areas
12 where there's windows such as these.

13 Q I'm sorry. Your stuff come up missing,
14 but 30 tapes --

15 A Uh-uhm.

16 Q -- altogether came up missing that was
17 recovered, is that correct, on the day that the
18 crime happened, is that correct?

19 A I didn't recover the tapes myself, but
20 yes, the police had.

21 Q Now, you appeared before Judge Gerald T.
22 Wienicki, do you remember, back on February the 27,
23 2004, that was preliminary hearing?

24 A Yeah, I remember that.

1 Q You never told him that 30 tapes came up
2 missing at your place, did you?

3 A Yes, I did.

4 Q You did?

5 A Um-uhm.

6 Q You sure you told him 30 tapes came --

7 A Yes.

8 Q -- came up missing? Well, there's no
9 mention --

10 MS. SCHULTZ: Objection.

11 THE DEFENDANT:

12 Q -- in the statements that 30 tapes came
13 up missing?

14 THE COURT: Sustained to the form of the
15 question.

16 THE DEFENDANT:

17 Q From the preliminary hearing statement
18 that was given before Judge Gerald T. Wienicki on
19 February 27, 2004, you appeared before the Judge?

20 A Yes, I did.

21 Q And there's no mention anywhere in the
22 preliminary hearing before Judge Gerald T. Wienicki
23 where you gave statements that 30 tapes came up
24 missing?

1 A I told him.

2 Q Here it is, black and white.

3 MS. CALLAS: Objection.

4 THE COURT: Sustained to the form of the
5 question. You have to ask it a different way, sir.

6 THE DEFENDANT:

7 Q Well, the preliminary hearing, you
8 appeared before this Judge?

9 A Yes, I did.

10 Q And it shows no record or no statement
11 and Yvette Nueva --

12 A Yes.

13 Q -- is that correct? Okay.

14 And it shows no testimony that 30 tapes
15 came up missing?

16 A Where does it show that? I don't even
17 know.

18 THE COURT: Mr. Griffin, if you want to ask a
19 question --

20 THE DEFENDANT: I'm asking.

21 THE COURT: -- you have to refer to a specific
22 question and answer. It's not just a statement
23 that's given. It's a question and answer process.

24 THE DEFENDANT: Right.

1 Q Statement never was given that 30 tapes

2 --

3 A It must have been given that day, yeah.

4 Q -- where he -- I have it in black and
5 white. February --

6 MS. SCHULTZ: Objection, irrelevant.

7 THE DEFENDANT:

8 Q -- 27, 2004?

9 THE COURT: Objection sustained. Ask another
10 question, please.

11 THE DEFENDANT:

12 Q And you don't know how that window became
13 broken on what caused that?

14 A I know it was broken after hours.

15 Q After hours?

16 A On that night.

17 Q On that night, right?

18 A After I left.

19 Q After you left?

20 A After I left the premises, locked the
21 store up, and put the alarm off.

22 Q Right?

23 A That's when the window was broken. I
24 don't know what time in the morning, but it was

1 broken that night.

2 THE DEFENDANT: Right. I'm sorry your
3 property came up missing, but I'm the person they
4 charged with it.

5 No further questions, your Honor.

6 THE COURT: Thank you. Any further questions
7 of this witness?

8 MS. SCHULTZ: Just very briefly.

9

10 REDIRECT EXAMINATION

11 BY MS. SCHULTZ:

12 Q At the preliminary hearing on February
13 27, 2004, before testifying before the Judge, you
14 spoke to Assistant State's Attorney Suzanne Kraus,
15 is that correct?

16 A Yes, I believe.

17 Q And you told her how many --

18 A Yes.

19 Q -- tapes had been missing?

20 A Yes.

21 Q Do you recall specifically -- have you
22 read that transcript? You testified --

23 A No, I have not.

24 Q You don't have an independent

1 recollection as to what questions were asked and
2 what answers were made?

3 A No, I don't.

4 Q The proceeds that you were asked at the
5 proceeding, correct?

6 A Yes. I even offered to bring inventory
7 reports, if needed, for the case.

8 Q This is not when you were questioning in
9 front of Judge --

10 A When I was talking to the person, the
11 State's Attorney.

12 Q The State's Attorney?

13 A Uh-uhm.

14 Q So that we're clear, some of it was taken
15 down by a court reporter, correct?

16 A Um-uhm.

17 Q And other parts of your conversation was
18 just you having conversation with the State's
19 Attorney?

20 A Correct.

21 Q And your recollection that you told the
22 State's Attorney during the conversation about the
23 tapes, correct?

24 A I did tell someone about the tapes and

1 how many there were, and I even offered inventory
2 reports showing the titles of the movies that were
3 missing, if they needed to have that type of
4 information.

5 Q But that information that you're talking
6 about now is not done in front of the Judge and
7 proceedings similar to this, was it?

8 A No. I was never in a room or with a
9 Judge or trial or anything like this.

10 Q But you did testify before the Judge?

11 A Yes, I did.

12 Q But there were different questions asked
13 at that time?

14 A Yes, very few questions, not as elaborate
15 as these.

16 Q Okay. Great. There were 27, either DVDs
17 or VHSS, inventoried?

18 A Uh-uhm.

19 Q Can you explain the discrepancy of the 3
20 other tapes?

21 A It could have just been an empty box, or
22 they could have been checked out at the time when I
23 counted 30 spaces. You know, when the movies are
24 checked out, of course, there's nothing there but

1 the cover boxes which is what you see here.

2 The ones with the pictures, those are
3 left behind to hold the place. And I remember
4 there was 3 movies that I always was missing the
5 box for, and it was in that area. It was a foreign
6 movie, and eventually, I had to take them off the
7 shelves because I didn't have any displayed for
8 them. So, it's pointless to keep them there.

9 MS. SCHULTZ: Thank you.

10 THE COURT: Any further questions based on
11 that?

12 THE DEFENDANT: Yes.

13

14 RECROSS EXAMINATION

15 BY THE DEFENDANT:

16 Q Ms. Nueva, you said that you had told
17 another State's Attorney at another proceeding that
18 the tapes, 30 tapes had came up missing?

19 A Yes.

20 Q And she wouldn't allow you to mention it
21 to the Judge on February 27, 2004, in front of
22 Judge Gerald T. Wienicki?

23 MS. SCHULTZ: Objection.

24 THE COURT: Sustained to the form of the

1 question.

2 THE DEFENDANT:

3 Q You told a State's Attorney that they
4 came up missing?

5 A Yes.

6 Q And did she write that down anywhere that
7 30 tapes came up missing?

8 MS. SCHULTZ: Objection.

9 THE COURT: She can answer, if she knows.

10 THE WITNESS:

11 A I mean, I don't know. She probably did
12 write it down.

13 THE DEFENDANT:

14 Q On an important crime as there is 30
15 tapes came up missing, and she wouldn't allow you
16 to give the statement to the Judge that they came
17 up missing --

18 MS. SCHULTZ: Objection.

19 THE WITNESS:

20 A I only answered the questions that were
21 asked of me at the time. If they weren't asked of
22 me at the time, I didn't answer. I just asked what
23 was asked of me.

24

1 THE DEFENDANT:

2 Q And during crimes like this here, by you
3 having been the manager there, am I correct, you
4 was the manager at that time?

5 A Yes, I was the store manager.

6 Q You was the store manager, but you
7 mentioned it to the State's Attorney and at a
8 separate place right before you appeared before the
9 Judge, right?

10 A Correct.

11 Q You had mentioned it to her?

12 A Uh-uhm.

13 Q And she wouldn't ask you the question how
14 many tapes had came up missing?

15 MS. SCHULTZ: Objection.

16 THE COURT: Sustained.

17 THE DEFENDANT:

18 Q Is that correct?

19 THE COURT: Ask another question.

20 THE DEFENDANT:

21 Q Did you at any time tell any Judge what
22 came up missing?

23 MS. SCHULTZ: Objection.

24 THE COURT: Sustained to the form. You can

1 ask her a specific question, and if she was asked
2 that question and gave that answer; but you cannot
3 ask the question in the form you're asking it, sir.

4 THE DEFENDANT:

5 Q You told the State's Attorney that it
6 came up missing?

7 MS. SCHULTZ: Objection, asked and answered.

8 THE COURT: The question's been asked numerous
9 times and answered numerous times. The objection
10 is sustained.

11 THE DEFENDANT:

12 Q But you never went on record and told
13 anyone that 30 tapes came up missing, did you,
14 ma'am?

15 MS. SCHULTZ: Objection.

16 THE COURT: Objection sustained. Any other
17 questions?

18 THE DEFENDANT: No further questions, your
19 Honor.

20 THE COURT: Any other questions from the
21 State?

22 MS. SCHULTZ: No, Judge.

23 THE COURT: Thank you very much.

24 (Witness excused.)

1 THE COURT: Any additional witnesses?

2 MS. CALLAS: No, Judge.

3 At this time, State is seeking leave to
4 strike all the identification marks from People's
5 Exhibits -- 1 through 2 have already been
6 admitted. We'd seek leave to strike the
7 identification marks from People's 3 and People's 4
8 and ask that they now be admitted. So, People's 1
9 through 4 are all admitted into evidence.

10 THE COURT: Any objection?

11 THE DEFENDANT: No objection.

12 THE COURT: 1 through 4 -- 1 and 2 have
13 previously been admitted. 3 and 4 will be admitted
14 at this time.

15 MS. CALLAS:) And with that, the People rest.

16 THE COURT: And at this time, we're going to
17 take a short recess.

18 THE DEFENDANT: Your Honor, before we take our
19 recess, the defense would like to present to the
20 jury --

21 THE COURT: Hold on, sir. We'll address the
22 defense after we take a short recess. At this
23 time, we're going to take a recess. I think lunch
24 is ordered. It should be here shortly. So, we'll

1 break for lunch as well.

2 (Whereupon, the jury left the courtroom
3 after which the following proceedings
4 were had:)

5 THE COURT: So, the State has not rested, and
6 I know you have --

7 MS. CALLAS: We're willing to just keep
8 working right now. So, go ahead.

9 THE COURT: Lunch has been ordered.

10 A DEPUTY: My sergeant said we have ordered it
11 but because -- due to the weather and stuff, not
12 until after 1:00.

13 MS. CALLAS: If it's right after 1:00, that's
14 all right.

15 THE COURT: And then, Mr. Griffin, the State
16 has not rested their case. We're going to turn to
17 the defense portion of the case, and are you going
18 to call any witnesses or present any evidence?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: Who are you going to call as
21 witnesses?

22 THE DEFENDANT: I would like to present
23 evidence, your Honor.

24 THE COURT: How are you going to do that,

1 sir?

2 THE DEFENDANT: I would like to present to the
3 jury the preliminary before Judge Gerald T.
4 Wienicki on the 27th, 2004, of February. I would
5 like to present that to the jury as evidence
6 concerning the tapes, that no tapes were ever
7 mentioned that came up missing from the manager of
8 the store.

9 THE COURT: So, you're seeking to introduce
10 the actual transcript?

11 THE DEFENDANT: The whole transcript, yes,
12 ma'am.

13 THE COURT: State?

14 MS. CALLAS: No objection.

15 THE COURT: You have no objection?

16 MS. CALLAS: No.

17 THE COURT: Typically, that would not come
18 into evidence, sir. If the State has no objection
19 to that coming into evidence --

20 MS. CALLAS: As long as it's clear on the
21 record that this is something the defendant wants
22 admitted, and we are not asking that this be given
23 to the jury.

24 THE DEFENDANT: Yes. I want it to be given to